

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**MICHAEL B. MUEGGENBERG,**

**Defendant.**

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**CASE NO. 8:05CR352**

**MEMORANDUM  
AND ORDER**

This matter is before the Court on the Report and Recommendation (Filing No. 19) issued by Magistrate Judge F.A. Gossett recommending that the Defendant's motion to suppress (Filing No. 13) be granted in part and denied in part. No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant seeks an order suppressing evidence and statements obtained as a result of the August 30, 2005, traffic stop, arguing that the stop was made without probable cause and the Defendant's post-arrest statements were not voluntary. Judge Gossett determined: reasonable suspicion existed for the traffic stop because the Defendant had an outstanding misdemeanor warrant and was driving on a suspended or revoked license; the search of the vehicle was lawful as a search incident to the Defendant's arrest; the black duffel bag in the passenger compartment of the vehicle was properly searched; and the government did not prove by a preponderance of the evidence that the Defendant knowingly waived his *Miranda* rights. Therefore, Judge Gossett recommends that the motion to suppress be granted as to the Defendant's statements to Deputy Jarrett and otherwise denied.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. Briefs, required pursuant to NECrimR 12.3(b)(1), and the transcript (Filing No. 18). Because Judge Gossett fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 19) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 13) is granted in part and denied in part as follows:
  - a. the motion is granted as to the Defendant's statements made to Deputy Jarrett; and
  - b. otherwise, the motion is denied.

DATED this 13<sup>th</sup> day of February, 2006.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge